IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CRIMINAL APPELLATE JURISDICTION

CRIMINAL APPLICATION NO. 4714 OF 2005

1. Niyaz Ahmed @ Munna @ Iqbal
Fateuddin Ansati.
2. Shakil Ahmed Fateuddin Ansari. ... Applicants.
Versus.
The State of Maharashtra. ... Respondent.

Shri R.L.Mahgaonkar for the Applicants.

Ms.M.H.Mhatre, A.P.P. for the Respondent.

CORAM : ABHAY S. OKA, J.

DATED : 26th July, 2005.

P.C.:

1. Heard the learned Counsel for the Applicants and the learned A.P.P. for the State. The Applicants are Accused Nos.1 and 3. Accused No.2 has expired. The offence is registered under sections 328, 379 read with section 34 of the Indian Penal Code. The Applicants were arrested on 3rd February 2004. The allegation in the F.I.R. is that the first informant was intending to travel by a train and he was waiting in booking hall. His allegation is that the Applicants brought a soft drink and offered to him. After he consumed the soft drink, he lost his consciousness. Thereafter the Accused committed robbery by taking away all his articles. The only material on record to show that the Applicants have used the intoxicating drug is the the statement of one Parvan Gupta who was allegedly residing with the Accused No.2. She stated that a doctor had

prescribed to her Larpose-2 mg. tablets. On the request made by the Accused No.2 in December 2003, she purchased 4 strips of the said tablets and gave the same to the said accused. Liquid found in a bottle in the pocket of the Accused No.2 was sent to Chemical Analyser. The Report of the Chemical Analyser shows that the liquid contained a narcotic drug Lorzepam. The Report states that Larpose tablet also contains the same drug.

2. If this is the only material on record for connecting the Applicants with the offence under section 328 and if the Applicants have already spent 17 months in custody, a case is made out for enlarging the Applicants on bail. The investigation is also completed long back.

3. Hence the following order is passed:

(i) The Applicants shall be enlarged on bail in connection with C.R.No.158 of 2003 registered at Bandra Railway Police Station, subject to furnishing a personal bond of Rs.10,000/- each with one or two sureties in the like amount.

(ii) The Bail is granted subject to condition

that the Applicants shall not, directly or indirectly, make any inducement or threat to any prosecution witnesses and shall not in any manner tamper with prosecution evidence.

(iii) The Applicants shall cooperate with the learned Trial Judge for expeditious disposal of the trial. Any attempt by the Applicants to delay the trial may be a ground for cancellation of bail.

(iv) Any observation made in this order shall not be construed as any finding or any expression of opinion on the merits of the case at the time of trial.

(v) Application is disposed of in above terms.

Judge.